



CITY COUNCIL AGENDA

SEPTEMBER 27, 2016

SYNOPSIS

CHAPPIE JONES
ASH KALRA
RAUL PERALEZ
MANH NGUYEN
MAGDALENA CARRASCO

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

SAM LICCARDO MAYOR

PIERLUIGI OLIVERIO
TAM NGUYEN
ROSE HERRERA VICE MAYOR
DONALD ROCHA
JOHNNY KHAMIS

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support Services** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Community & Economic Development** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- **Neighborhood Services** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Transportation & Aviation Services** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environment and Utility Services** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Public Safety Services** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Successor Agency to the Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, the Mayor will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 7 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <http://www.sanjoseca.gov/index.aspx?NID=3549>. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Tower 14th Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:30 a.m. - Closed Session, Call to Order in Council Chambers
Absent Councilmembers: All Present.
1:30 p.m. - Regular Session, Council Chambers, City Hall
Absent Councilmembers: All Present.
- **Invocation (District 8)**
Imam Saleem Mola, Evergreen Islamic Center, presented the Invocation.
- **Pledge of Allegiance**
Mayor Liccardo led the Pledge of Allegiance accompanied by third-grade students from Lynhaven Elementary School.
- **Orders of the Day – *Heard after Ceremonial Items***
The Orders of the Day and the Amended Agenda were approved.
- **Closed Session Report**
None provided.

1. CEREMONIAL ITEMS

- 1.1 Presentation of a proclamation for National Preparedness Month.
(Rocha/Khamis/Oliverio)
Mayor Liccardo and Councilmembers Rocha, Khamis and Oliverio provided a proclamation for National Preparedness Month.
- 1.2 Presentation of a commendation to California Water Service, celebrating its 90th anniversary as a public utility and its 2016 JD Power Award. (Peralez)
Mayor Liccardo and Councilmember Raul Peralez presented a commendation to California Water Service, celebrating its 90th anniversary as a public utility and its 2016 JD Power Award.
- 1.3 Presentation of a commendation to Bark in the Park in celebration of their 20th anniversary. (Peralez)
Mayor Liccardo and Councilmember Raul Peralez presented a commendation to Bark in the Park in celebration of their 20th anniversary.

2. CONSENT CALENDAR

- 2.1 **Approval of Minutes.**
None provided.
- 2.2 **Final Adoption of Ordinances.**
None provided.
- 2.3 **Approval of Council Committee Minutes.**
Recommendation: Approval of Council Committee Minutes.
(a) Rules and Open Government Committee Minutes of September 7, 2016. (Mayor)
(b) Neighborhood Services and Education Committee Minutes of September 8, 2016.
(Rocha)
CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities.
Approved.
- 2.4 **Mayor and Council Excused Absence Requests.**
None provided.
- 2.5 **City Council Travel Reports.**
None provided.
- 2.6 **Report from the Council Liaison to the Retirement Boards.**
Councilmember Johnny Khamis reported on his participation in the 7th Annual World Bank Global Pension and Savings Conference held in Washington DC.

2. CONSENT CALENDAR

2.7 Revisions to Conflict of Interest Code.

Recommendation:

- (a) Adopt a resolution by the City Council amending the Conflict of Interest Code for the City of San José.

Resolution No. 77935 adopted.

- (b) Adopt a resolution by the City Council, as the code reviewing body pursuant to the California Political Reform Act, amending the Conflict of Interest Code for the Successor Agency to the Redevelopment Agency of the City of San José.

CEQA: Not a Project, File No. PP10-068(c), Municipal Code or Policy change that involves no changes in the physical environment. (City Clerk)

Resolution No. 77936 adopted.

2.8 International Travel to Toronto, Canada for the Urban Sustainability Directors Network Annual Meeting.

Recommendation: Authorize international travel to Toronto, Canada for Jo Zientek, Deputy Director of Environmental Services Department, as the City Manager's designated representative to the Urban Sustainability Directors Network Annual Meeting, from October 16 to October 19, 2016. CEQA: Not a Project, File No. PP10-069(c), City Administrative Activities. (Environmental Services)

Authorized.

2.9 Actions Related to the Purchase Order with Central Medical Lab, Inc. for Forensic Testing and Analysis.

Recommendation: Adopt a resolution to authorize the City Manager to:

- (a) Execute a Purchase Order with Central Medical Lab, Inc. (San José, CA) to provide forensic, blood, urine, and breath testing and analysis services for the Police Department for an initial twelve month period commencing on July 1, 2016 and ending on June 30, 2017, in an amount not-to-exceed \$75,000;
- (b) Approve a contingency of \$15,000 in the event that required services exceed estimates; and
- (c) Exercise up to four one-year options to renew the Purchase Order, with the final option year ending June 30, 2021, subject to the annual appropriation of funds.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts. (Finance)

Resolution No. 77937 adopted.

2. CONSENT CALENDAR

2.10 Actions Related to the Report on Bids for Electrical Parts and Supplies.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Execute Purchase Orders with Buckles Smith Electric (San José, CA) and Edges Electrical Group, LLC (San José, CA) for the purchase of electrical parts and supplies for an initial twelve month period commencing on July 1, 2016 through June 30, 2017, for a collective amount not-to-exceed \$2,000,000, or \$1,000,000 for each Purchase Order;
- (b) Approve a contingency of \$75,000 in the event that actual usage exceeds estimates;
- (c) Transfer funds between the two Purchase Orders as required, depending on actual usage; and
- (d) Exercise up to four, one-year options to renew the Purchase Orders, with the final option year ending June 30, 2021, subject to the annual appropriation of funds.

CEQA: Not a Project, File No. PP10-066(a), Agreements and Contracts, Purchase Order. (Finance)

Resolution No. 77938 adopted.

2.11 Council District 6 Costume Dog Walk.

Recommendation: As recommended by the Rules and Open Government Committee on September 14, 2016:

- (a) Approve the Costume Dog Walk scheduled on Sunday, October 30, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Oliverio)
[Rules Committee referral 9/14/16 – Item G.1.a]

Approved.

2.12 County Measure A: Parcel Tax for Affordable Housing.

Recommendation: As recommended by the Rules and Open Government Committee on September 21, 2016, adopt a position of support for County Measure A. CEQA: Not a Project, File No. PP10-069(d), Legislative Positions. (Housing)

[Rules Committee referral 9/21/16 – Item G.2.]

Position of Support adopted.

Noes: Khamis.

2. CONSENT CALENDAR

2.13 SuperKids Summer Bash.

Recommendation: As recommended by the Rules and Open Government Committee on September 21, 2016:

- (a) Retroactively approve the SuperKids Summer Bash scheduled on Saturday, July 30, 2016 as a City Council sponsored Special Event and approve the expenditure of funds.
- (b) Retroactively approve and accept donations from various individuals, businesses or community groups to support the event.

CEQA: Not a Project, File No. PP15-077, Temporary Special Events. (Kalra)

Approved.

2.14 Association of Bay Area Governments Board Appointments.

Recommendation: As recommended by the Rules and Open Government Committee on September 21, 2016, appoint Councilmember Tam Nguyen and Councilmember Johnny Khamis to the Association of Bay Area Governments Board. CEQA: Not a Project, File No. PP10-069, City Administrative Activities.

[Rules Committee referral 9/21/16 – Item F.1.a.]

Approved.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the City Manager, Norberto Dueñas (Verbal Report).

City Manager Norberto Dueñas provided a status on the currently raging Loma fire and extended gratitude to San José’s emergency personnel who, through a mutual aid agreement, are actively fighting this fire.

3.2 Labor Negotiations Update.

Recommendation: Accept Labor Negotiations Update.

None provided.

3.3 Amendments to the Agreements for Temporary Staffing Services for Building Inspection, Plan Review and Related Services.

Recommendation: Adopt a resolution authorizing the City Manager to:

- (a) Negotiate and execute Amendments to the Master Agreements with the following vendors to provide temporary staffing to perform building inspection, plan review, and related services, to increase maximum compensation by \$1,900,000 for a revised not to exceed maximum compensation amount of \$6,900,000, for the term ending July 31, 2017 for each agreement:

(Item Continued on the Next Page)

3. STRATEGIC SUPPORT SERVICES

3.3 Amendments to the Agreements for Temporary Staffing Services for Building Inspection, Plan Review and Related Services (Cont'd.)

- (1) 4Leaf, Inc.
 - (2) Bureau Veritas North America Inc.
 - (3) California Code Check Inc.
 - (4) CSG Consultants Inc.
 - (5) Interwest Consulting Group Inc.
 - (6) Metropolitan Planning Group
 - (7) Pacific Municipal Consultants
 - (8) Shums Coda Associates
 - (9) TRB and Associates Inc.
 - (10) West Coast Code Consultants Inc.
 - (11) Willdan Engineering
- (b) Negotiate and execute Amendments to the Agreements to add up to five additional one-year options to extend the term through July 31, 2022, subject to appropriation of funds; and
- (c) Negotiate and execute Amendments to the Agreements to make minor modifications to the scope of services and compensation schedule for each agreement as required, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-066(d), Agreements and Contracts, Consultant Services. (Finance/Planning, Building and Code Enforcement)

Resolution No. 77939 adopted.

3.4 Status of the Human Resources, Payroll, Timekeeping, and Budget Systems.

Recommendation:

- (a) Accept the report on the status of the Human Resources, Payroll, Timekeeping, and Budget Systems implementation.

Accepted.

Noes: Oliverio.

- (b) Approve an increase to the project contingency of \$966,000, bringing the total contingency to \$1,883,740, of which funding of \$500,000 was approved in the 2016-2017 Adopted Budget and \$466,000 will be recommended to be funded as part of the 2015-2016 Annual Report to be heard by the City Council on October 18, 2016.

Approved.

Noes: Oliverio.

(Item continued on the next page)

3. STRATEGIC SUPPORT SERVICES

3.4 Status of the Human Resources, Payroll, Timekeeping, and Budget Systems. (Cont'd)

Recommendation:

- (c) Adopt a resolution authorizing the City Manager to:
- (1) Negotiate and execute amendments to the Agreements with CherryRoad Technology, Inc., Oracle, Mythics, Leckey Consulting, Inc., and Maverick in order to increase the maximum compensation payable under these agreements in a total amount not to exceed the revised contingency amount of \$1,883,740, subject to appropriation of additional funding totaling \$466,000;
 - (2) Negotiate and execute amendments to the Agreements with Beacon Light Consulting Inc., and Twysoft, Inc. for staffing support not to exceed a maximum compensation amount of \$600,000 for both Agreements; and
 - (3) Execute amendments to the Agreement with CherryRoad Technology, Inc., for Managed Services at a cost of \$100,000 in 2016-2017 and an annual cost of \$200,000 for a term of up to five years, subject to the appropriation of funds.

CEQA: Not a Project, File No. PP10-069(a), Staff Reports, Not a Project, File No PP10-069, City Administrative Activities and; Not a Project, File No. PP10-067(b), Appropriation Ordinance. (Finance/Human Resources/Information Technology/City Manager)

Resolution No. 77940 adopted.

Noes: Oliverio.

3.5 Amendment to Title 12 of the San José Municipal Code Related to the Legal Defense Fund and Elections and Municipal Campaign and Officeholder Contributions.

Recommendation:

- (a) Approve an ordinance amending Chapter 12.06 of Title 12 of the San José Municipal Code to amend Section 12.06.810 and to add a new Part 11 related to the Legal Defense Fund.

Ordinance No. 29792 passed for publication.

Abstain: M. Nguyen. (Recused)

(Item Continued on the Next Page)

3.5 Amendment to Title 12 of the San José Municipal Code Related to the Legal Defense Fund and Elections and Municipal Campaign and Officeholder Contributions (Cont'd.)

- (b) Approve an ordinance amending Chapter 12.06 of Title 12 of the San José Municipal Code to add Section 12.06.175 and to amend Sections 12.06.210, 12.06.290, 12.06.610, 12.06.720, and 12.06.910 related to Elections and Municipal Campaign and Officeholder Contributions.

CEQA: Not a Project, File No. PP10-068(b), General Procedure & Policy Making Municipal Code or Policy, Title 12. (City Attorney)

[Deferred from 9/20/16 – Item 3.6]

Please note: Approval of this item requires 8 or more affirmative votes (2/3).

Ordinance No. 29793 passed for publication, with the inclusion of a reference to voluntary pro bono services as allowed under state law, and with referral to the Board of Fair Campaign and Political Practices for further review, returning to Council in six months, and include examining that if no action is filed regarding election contests by the deadlines set by the Elections Code, that no fundraising pursuant to section (b) of the staff recommendation should be allowed.

Abstain: M. Nguyen. (Recused)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Actions Related to Approval of Ice Centre Renaming.

Recommendation: Adopt a resolution authorizing the following:

- (a) Approving the sale by Sharks Ice of the naming rights of the Ice Centre of San Jose (the Ice Centre) to Petersen Dean Roofing & Solar (the Sponsor) for a term of five years;
- (b) Consenting to the official renaming of the Ice Centre from “Sharks Ice at San Jose” to “Solar4America Ice at San Jose” and to the use of the shorter version of the name “Solar4America Ice” when use of the full official name is not reasonably practical; and
- (c) Delegating to the City Manager the authority to approve the location, design, size and appearance of new exterior signage at the Ice Centre to portray the new name and logo.

CEQA: Exempt, File No. PP15-033. (Economic Development)

Resolution No. 77941 adopted.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.2 Amendment to Title 4 – Construction Excise Tax – Downtown Incentive. *DEFERRED*

Recommendation:

- (a) Approve an ordinance amending Chapter 4.46 of Title 4 of the San José Municipal Code and Chapter 4.47 of Title 4 of the San José Municipal Code to add sections to suspend the collection of the Building and Structure Construction Tax and the Commercial Residential Mobile home Park Construction Tax (also referred to as the Construction Excise Tax) for the first commercial, non-hotel, high rise development project that secures its first building permit prior to May 31, 2017.
- (b)
 - (1) Adopt a resolution authorizing the City Manager or designee to negotiate and execute a Project Completion Agreement with Trammell Crow Company in which the City will suspend the collection of the Building and Structure Construction Tax and the Commercial Residential Mobile Home Park Construction Tax (also referred to as the Construction Excise Tax) for the construction of 1 million square feet of office/retail development in Downtown San José subject to Trammell Crow Company being eligible for the tax suspension.
 - (2) Conduct a Public Hearing regarding an economic subsidy estimated value not to exceed \$4 million in connection with a Project Completion Agreement with Trammell Crow Company if all conditions of receiving the tax suspension are satisfied, pursuant to California Government Code Section 53083.

CEQA: Not a Project, File No. PP10-068(c), General Procedure & Policy Making that involve no changes in the physical environment; File No. PDC15-051, Delmas Avenue Mixed-Use Development, Addendum to the Final EIR for the San José Water Land Company Planned Development Rezoning, Downtown Strategy 2000 FPEIR, Envision 2040 General Plan FPEDIR and SEIR. (Economic Development)

Deferred to 10/4/16 per Administration.

4.3 Modifications to the Regulations for the Apartment Rent Ordinance and Extension of the Interim Amendment to the Apartment Rent Ordinance.

Recommendation:

- (a) Approve an ordinance amending Part 8 of Chapter 17.23 of Title 17 of the San José Municipal Code (Interim Amendment to the Apartment Rent Ordinance) extending the termination date of that Chapter until the earlier of June 30, 2017 or sixty days after the effective date of an Ordinance amending Chapter 17.23 consistent with Council direction.

Ordinance No. 29794 passed for publication.

(Item Continued on the Next Page)

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Modifications to the Regulations for the Apartment Rent Ordinance and Extension of the Interim Amendment to the Apartment Rent Ordinance (Cont'd.)

- (b) Adopt a resolution amending and restating Chapter 9 of the regulations for the operation and administration of the San José Rental Dispute Mediation and Arbitration Ordinance, Chapter 17.23 of Title 17 of the San José Municipal Code (Apartment Rent Ordinance) and superseding Resolution No.77922.

CEQA: Exempt, Section 15061 (b)(3), No potential for causing a significant effect on the environment, File No. PP16-051. (Housing)

Resolution No. 77942 adopted, with changes as outlined by Staff as follows:

9.02.04 Opposition Statements:

A tenant may submit a statement in opposition to the claim(s) made by the petition on a City approved form (“Opposition Statement”). The Opposition Statement should be filed with the Program within ~~21~~ 10 days of the date of the City Complete Notice. The Opposition Statement must be accompanied by a proxy form and should include any supporting documentation intended to be presented at the hearing.

...

9.02.05 C. Evidence that may tend to show that rents were unusually low for the quality, location, age, amenities and condition of the housing includes *but is not limited to* evidence of rents collected in comparable buildings located in the same neighborhood.

...

9.03.01 Program staff shall assign an (Arbitration) Hearing Officer to hear the completed fair return petition and the administrative hearing on the petition shall be scheduled within ~~thirty (30)~~ forty (40) days of the mailing of the notice of determination of completeness. In the event the Hearing Officer elects to hold a pre-hearing conference, the pre-hearing conference shall be scheduled within ~~30~~ 40 days and the hearing thereafter. Notice of the hearing date shall be sent to the landlord and affected tenants. The notice of the hearing date shall be deposited in the U.S. Mail at least two weeks prior to the hearing date.

And, by substitute motion from Councilmember Ash Kalra, include a modification to 9.02.05 (B): Tax returns *alone* are not accepted as sufficient evidence for Current Year claims, or for any year less than three years prior to the Current Year. Copies of contemporaneously prepared ledgers *alone* are not accepted as sufficient evidence for the Current Year; and modification to 9.06.03 (F) “...original documents are the best evidence, *and all types of evidence may be submitted.*”

Noes: Khamis, M. Nguyen, Oliverio.

5. NEIGHBORHOOD SERVICES

5.1 Actions Related to the Cannery Park/Hanover Development Turnkey Park Master Plan.

Recommendation:

- (a) Approve the Cannery Park Turnkey Improvements Master Plan.
- (b) Approve a Parkland Agreement between the City of San José and The Hanover Company (“Japantown Associates”), a Delaware Limited Liability Company, regarding Plan Development Permit PD15-004 for a future dedication of land for park purposes pursuant to the City’s Park Impact Ordinance (San José Municipal Code Chapter 14.25) and the development of turnkey park improvements.

Approved.

- (c) Adopt a resolution authorizing the City Manager or designee to accept an offer of dedication from The Hanover Company for approximately 31,362 square feet of land (0.72 acres) for park purposes located at the southwest corner of North 10th and Mission Street, and to execute all documents necessary to construct turnkey park improvements on the above and adjacent property intended for public park purposes.

CEQA: Cannery Park/Hanover Project Mitigated Negative Declaration, File No. GP15-001. Council District 3. (Parks, Recreation and Neighborhood Services)

Resolution No. 77943 adopted.

6. TRANSPORTATION & AVIATION SERVICES

6.1 CalTrain Electrification Project Agreement.

Recommendation:

- (a) Adopt a resolution making certain findings as a responsible agency for purposes of and pursuant to the provisions of the California Environmental Quality Act of 1970 in connection with the approval of discretionary actions of the City of San José necessary for the construction of the Peninsula Corridor Electrification Project and adopting the related mitigation monitoring and reporting program.

Resolution No. 77944 adopted.

- (b) Approve the Comprehensive Agreement with the Peninsula Corridor Joint Powers Board for the Peninsula Corridor Electrification Project within the limit of the City of San José for a term from the date of execution to the completion of construction estimated to be December 2020.

CEQA: Peninsula Corridor Electrification Project Final EIR, File No. PP16-061. (Planning, Building and Code Enforcement/Transportation)

Approved.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

9. REDEVELOPMENT – SUCCESSOR AGENCY

- **Open Forum**
 1. **Brian Darby offered appreciation for the advocacy the City has done on behalf of the Winchester Mobile Home Park, and he brought attention to a study that was done on autism spectrum disorder.**
 2. **Blair Beekman discussed translation services as referenced by Melissa Morris with the Law Foundation of Silicon Valley and offered comments regarding surveillance and technology.**

- **Adjournment**

The Council of the City of San José adjourned at 5:46 p.m.